

E R R A T U M

to

MCO 12792.2 of 15 May 91

DEPARTMENT OF THE NAVY DRUG-FREE WORKPLACE PROGRAM (DFWP)

1. Show the PCN distribution in the "DISTRIBUTION:" section of the basic Order to read: "PCN 10212530100."

DISTRIBUTION: PCN 10212530180

Copy to: 7000110 (55)
7000093 (5)
8145005 (2)
7000144/8145001 (1)



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
WASHINGTON, DC 20380-0001

MCO 12792.2
ARC
15 May 91

MARINE CORPS ORDER 12792.2 W/ERRATUM

From: Commandant of the Marine Corps
To: Distribution List

Subj: DEPARTMENT OF THE NAVY DRUG-FREE WORKPLACE PROGRAM (DFWP)

Ref: (a) MCO 12792.1
(b) SECNAVINST 12792.3
(c) CPI 792-3
(d) CPI 792
(e) CPI 752
(f) MCO P5510.18 (HQMC INSECMAN)
(g) Executive Order 12564
(h) Public Law 100-71
(i) Department of Health and Human Services Guidelines
(j) MRO Manual, A Guide to Evaluating Urine Drug Analysis
(k) JTR

Encl: (1) Random Drug Testing Program Checklist for Supervisors
(2) Random Drug Testing Program Checklist for Employees
(3) Drug Testing Volunteer Memorandum
(4) Documentation in Support of Drug-Related Incident
(5) Notice of Reasonable Suspicion Testing for Illegal Drug Use Memorandum

1. Purpose. To implement the policy and procedures of references (a) through (k) as they apply to the DON Drug-Free Workplace Program (DFWP) for Headquarters Marine Corps; Headquarters Battalion, Henderson Hall; Marine Barracks, 8th and I; and Marine Corps Research, Development, and Acquisition Command.

2. Background. The basic requirements for a Federal drug-free workplace were established by references (g) and (h).

3. Program Components. The DFWP is a comprehensive program balanced between offering a helping hand to employees who are using drugs illegally and at the same time, making clear that illegal drug use will not be tolerated. To accomplish these goals the DON DFWP includes the following components:

a. A strong Civilian Employee Assistance Program (CEAP) emphasizing employee education, counseling, and referral to rehabilitation, as described in reference (d).

b. Mandatory supervisory training to assist in identifying and addressing illegal drug use, as provided for in reference (c).

15 May 91

c. A safe harbor for any employee who voluntarily admits to drug use; completes counseling or rehabilitation through CEAP; agrees to follow-up testing; agrees to the release to appropriate management and CEAP officials of all counseling and rehabilitation records related to that individual's illegal use of drugs; and thereafter refrains from illegal drug use.

d. Identification of illegal drug users including carefully controlled and monitored testing with maximum respect for individual confidentiality consistent with safety and security.

4. Applicability. This Order applies to all appropriated fund civilian employees and to applicants tentatively selected for appropriated fund positions subject to a drug testing requirement in the activities cited in paragraph 1 of this Order.

5. Responsibilities

a. Activity Heads. Activities heads and, for Headquarters Marine Corps, the Director of Administration and Resource Management (DirAR), will:

(1) Ensure that the DFWP policies and procedures are fully implemented at the activity level.

(2) Sign (or use facsimile) and ensure distribution of an individual notice to each employee whose position has been determined to meet the criteria of a Testing Designated Position (TDP) at least 30 days before the employee is subject to unannounced random testing.

(3) Review the TDP determination and make a final decision on the issue, if requested by any employee.

(4) Ensure that procedures are established for requiring testing for reasonable suspicion. The approval level for testing may be redelegated to no lower than one level above the supervisor or manager requesting the test.

(5) Ensure that any employee in a TDP found to use drugs illegally is immediately removed from that position. The employee may be returned to the position as part of a counseling or rehabilitation program if the activity head determines that such action will not endanger public health, safety, or national security. This authority to reinstate the employee to the TDP may not be redelegated.

(6) Ensure that necessary disciplinary action is taken following the provisions of this Order, and references (b) and (e).

15 May 91

(7) Notify the activity head or commander of other DON activities that the employee had a verified positive drug test as determined under applicant testing.

(8) Ensure that collection site observers and coordinator(s) are appointed, if necessary.

(9) Ensure that the services of a qualified Medical Review Officer (MRO) are available to the activity.

(10) Ensure all mandatory training is provided, including training of the Drug Program Coordinator (DPC).

(11) Ensure that a copy of the "General Notice" included in reference (c) is distributed to all new hires.

(12) Ensure that the provisions of the DFWP, including drug awareness, the hazards of illegal drug use, the CEAP, and safe harbor are publicized to all employees.

(13) Ensure that positions identified as TDP's meet the regulatory criteria. These positions will then form the activity pool of TDP's.

(14) Ensure that all specimen collections are conducted strictly adhering to the provision of this Order and reference (c).

(15) Authorize each random sampling conducted by the activity. This authority is redelegated to the DPC.

b. Activity Security Officer will notify the DPC whenever an employee is granted access to top secret or an employee's access to top secret is downgraded/withdrawn.

c. Drug Program Coordinator. The DPC will:

(1) Direct, administer, and manage the DFWP within the activities cited in paragraph 1 of this Order.

(2) Administer an employee education program on use of illegal drugs. Ensure that mandatory training is provided to supervisors/managers and activity collection team members.

(3) Establish and maintain an activity list identifying each position/occupant in the TDP pool.

(4) Manage the issuance of all 30-day individual notices to occupants of TDP's and retain documentation verifying receipt of each notice.

(5) Arrange each specimen collection from the pool of employees in TDP's and volunteers per random selection collection

15 May 91

procedures and coordinate all other types of testing (i.e., reasonable suspicion, applicant, and follow-up), including the chain of custody and control of urine specimens.

(6) Authorize deferrals of random and follow-up testing.

(7) Receive and maintain confidential records of all drug test results from the MRO on behalf of the activity head. Ensure that drug test results are transmitted/released only to those authorized to receive them and that such transmissions are made in a manner to ensure their integrity and confidentiality.

(8) Ensure that all tested employees are notified, in writing, of negative drug test results.

(9) Inform the Classification and Employment Section, Marine Corps Consolidated Civilian Personnel Office, Washington, DC (MCCCPO-DC) of applicant test results.

(10) Notify CEAP Administrator and the appropriate supervisor or manager having the authority to initiate or approve an adverse action against the employee in the event of a verified positive drug test result.

(11) Notify Navy Drug Screening Laboratory (NDSL) if positive specimens are to be retained beyond the normal period of 1 year.

(12) Prepare and maintain all documentation and reports on the DFWP as required by references (c) and (i).

(13) Recommend appropriate disciplinary action to cognizant managers and supervisors.

d. CEAP Administrator will implement and operate the CEAP as prescribed in reference (d). The CEAP Administrator is located in the Employee Relations/Training Section, MCCCPO-DC.

e. CEAP Counselors will meet all program responsibilities as detailed in reference (d).

f. Medical Review Official (MRO). The MRO will:

(1) Receive all drug testing results from the NDSL.

(2) Assure that an individual who has tested positive has been afforded an opportunity to offer alternate medical justification for the test result per references (d), (i), and (j).

(3) Immediately report all verified drug test results to the DPC.

15 May 91

(4) Coordinate with and report to the DPC on all drug testing functions and findings on a regular basis.

g. Supervisors. Supervisors will:

(1) Notify individual employees of a scheduled drug test.

(2) Request deferral of an employee's random or follow-up drug test from the DPC, under the conditions of paragraph 9c of this Order.

(3) Initiate a reasonable suspicion test, after first making appropriate factual observations and obtaining approval as discussed in paragraph 11 of this Order.

(4) Upon a finding of illegal drug use:

(a) Refer employees to the CEAP for assistance in obtaining counseling and rehabilitation.

(b) Follow-up with CEAP to ensure employee's participation and completion of treatment and rehabilitation.

(c) Coordinate with the MCCCPO-DC personnel and the DPC to determine appropriate action.

(5) Initiate appropriate administrative and disciplinary actions.

(6) Not select for any position an applicant who has had a verified positive test result within the last 6 months.

h. Employees. Employees will:

(1) Refrain from the illegal use of drugs on and off duty at all times.

(2) Provide a urine sample when required.

(3) Be responsible for successful completion of any rehabilitation or treatment required as the result of illegal drug use.

i. Marine Corps Consolidated Civilian Personnel Office, Washington DC (MCCCPO-DC). MCCCPO-DC will:

(1) Provide advice, guidance, and training to employees, supervisors, and managers in matters relating to this Order.

(2) Ensure that if vacancy announcements are used, the notice that the position is subject to drug testing is included,

15 May 91

if applicable. Other forms of notice are proper if a vacancy announcement is not used.

(3) Ensure, prior to making a final offer of employment, or processing other position placement action, that a required drug test has been conducted on an individual with a negative result. Maintain a 6-month file of written notice from the DPC of verified positive test results of applicants. Ensure that any applicant who receives such a result is not considered for employment or other requested placement action with MCCCPO-DC serviced activities for a period of 6 months following the date the positive test was verified by the MRO.

(4) Enter the appropriate data elements which pertain to the DFWP into the Naval Civilian Personnel Data System (NCPDS) as required by reference (c).

(5) Issue a copy of the General Notice signed by the Secretary of the Navy to all new employees.

(6) Maintain records and information relating to personnel actions taken against employees as required by this Order and reference (c).

(7) Notify the DPC of personnel or position actions affecting incumbents of TDP's.

(8) Notify DPC if positive specimens need to be retained longer than the normal 1-year period by NDSL; e.g., adverse action appeal or enforcement of a rehabilitation plan or agreement.

6. Training and Education

a. Supervisory Training. Prior to implementation, the MCCCPO-DC will provide training to assist supervisors and managers in recognizing and addressing illegal drug use by employees. This training is mandated by reference (g) and required for all supervisors and managers. The training should include information on:

(1) Department of the Navy policy on illegal drug use.

(2) The supervisor's role with respect to the DFWP.

(3) How to recognize, document, and deal with employee performance and conduct problems due to illegal drug use.

(4) The role of the DPC, CEAP Administrator, medical, and personnel staffs.

15 May 91

(5) The supervisor's responsibilities to offer CEAP services and take the required administrative and disciplinary actions.

b. Employee Education

(1) Drug education will be offered to all personnel. This may include information on types and effects of drugs; symptoms of drug use and effects on performance/conduct; the relationship between the CEAP and the drug testing program; and other relevant treatment, rehabilitation confidentiality, and "Safe Harbor" provisions of the DFWP.

(2) The drug education process will be accomplished through such means as distribution of written materials, videotapes, lunchtime employee forums, or employee drug awareness days.

c. Drug Program Coordinator. DPC must be trained with regard to:

(1) The DFWP.

(2) Collection and chain of custody procedures.

(3) General information on drug testing laboratory procedures.

(4) Required records and reports.

(5) Confidentiality and Privacy Act requirements.

d. Collection Personnel. These individuals must be trained in:

(1) Collection procedures and responsibilities with Collection Site Coordinators receiving specific training in chain of custody procedures.

(2) Confidentiality and Privacy Act requirements.

e. CEAP Personnel. CEAP personnel must be trained on CEAP requirements regarding the DFWP.

7. General Program Provisions

a. Notices

(1) General Notice. A general notice signed by the Secretary of the Navy announcing the testing program was issued on or about 1 September 1988 to all covered employees. The notice is also issued to all new hires.

15 May 91

(2) Individual Notice. A notice to occupants of TDP's that the position has been determined to meet the criteria and justification for random drug testing will be issued at least 30 days before the individual is subject to unannounced random testing. Paragraph 9 of this Order describes the procedures.

b. Types of Testing. The following types of drug testing will be done:

(1) Random testing of employees in positions identified as TDP's.

(2) Reasonable suspicion testing.

(3) Voluntary testing.

(4) Testing as part of or as a follow-up to counseling or rehabilitation.

(5) Applicant testing.

c. Types of Drugs. Employees and applicants will be tested for cocaine, cannabis (marijuana), amphetamines, opiates, phencyclidine (PCP), and/or the metabolites of these drugs. While reference (i) permits testing for any drug in Schedules I and II of the Controlled Substances Act (CSA) in cases of reasonable suspicion, until further notice, activities may only request testing for LSD and barbiturates. CSA Schedules are contained in reference (c), Appendix G.

d. Voluntary Self-Referral for Safe Harbor

(1) A fundamental aspect of the DFWP is to assist employees who voluntarily seek treatment for drug use. For this reason, "Safe Harbor" will be offered for any employee who meets All of the following conditions:

(a) Voluntarily identifies self as an illegal user of drugs to a supervisor or other higher level management official prior to being identified through other means.

(b) Obtains counseling and rehabilitation through the CEAP.

(c) Agrees to be tested under the provision of this Order as part of or as a follow-up to counseling and rehabilitation.

(d) Consents, in writing, to the release to appropriate management and CEAP officials of all counseling and rehabilitation records related to illegal drug use.

15 May 91

(e) Thereafter refrains from illegal use of drugs.

All of these conditions must be documented in an agreement between the employee and management.

(2) An employee who admits to drug use after being notified that a test is scheduled or just after a sample is collected, or who is found to use drugs on the basis of other appropriate evidence (e.g., direct observation or evidence obtained from an arrest or criminal conviction) is not eligible for "Safe Harbor." "Safe Harbor" is for users of illegal drugs, not drug dealers or those involved in other drug-related misconduct.

(3) An employee who meets the "Safe Harbor" conditions will not be subject to discipline for the admitted acts of illegal use of drugs, including possession incident to such personal use. If the employee occupies a TDP the employee must be placed in a non-TDP. See paragraph 15a(2) of this Order.

e. Privacy During Urine Collection

(1) Unobserved. Generally, any individual subject to testing shall be permitted to provide a urine specimen privately in a restroom stall or similar enclosure so that the employee is not visually observed while providing the sample except as provided below. Collection site personnel (observer) of the same gender, will escort the employee/applicant to the restroom and remain outside the stall during the specimen collection.

(2) Observed. If an activity has reason to believe that the individual may alter or substitute the specimen, the individual may be required to provide the specimen under direct visual observation. Examples of situations calling for direct visual observation include those when:

(a) The individual is being tested based on reasonable suspicion and there is an individualized determination that visual monitoring is warranted.

(b) Facts and circumstances suggest that the individual is under the influence of drugs at the time of the collection.

(c) The individual has previously been found by the activity to be an illegal user of drugs and is undergoing follow-up testing, including employees with "Safe Harbor" agreements.

(d) Facts and circumstances suggest that the individual has equipment or materials capable of tampering with or adulterating a urine sample.

(e) The individual has previously tampered with a sample.

Any such reason must be documented in writing and retained with the collection records by the DPC or in the adverse action files.

f. Failure to Report to the Designated Collection Site

(1) If an individual fails to appear at the collection site at the assigned time, the DPC shall note the fact in the record and immediately notify the supervisor. If the collection is being managed by a Collection Site Coordinator, that individual shall immediately notify the DPC who, in turn, will notify the supervisor.

(2) An employee who fails to appear for testing without a deferral, as described in paragraph 9c of this Order, will be subject to the same range of discipline as a verified positive test result for illegal drug use. See reference (e) for procedural requirements. Due to the nature of this offense, there is no requirement for referral to the CEAP.

(3) An applicant's failure to appear for a test will result in the cancellation of any tentative offer of employment.

g. Refusal to be Tested When Required

(1) If an employee refuses to be tested, regardless of the reason for the testing, the employee will be informed that refusal will be considered refusal to follow a direct order and will result in the same range of discipline as a verified positive test result. See reference (e) for procedural requirements.

(2) Due to the nature of this offense, there is no requirement for referral to the CEAP.

(3) An applicant's refusal to be tested shall result in the cancellation of any tentative offer of employment.

h. Failure to Provide a Sample

(1) Insufficient Sample. An employee should be given a reasonable amount of time to provide the sample. If an employee is unable to provide at least 60 milliliters of urine, the temperature of the first sample should be checked and the partial specimen should be placed in a secure area. The following steps should then be taken:

(a) The employee shall be asked to drink sufficient fluids and will remain at the collection site within view of the

15 May 91

DPC/Collection Site Coordinator (CSC) until the employee is able to provide a sufficient sample.

(b) When the employee is ready to provide the second specimen, the employee shall void in the catch container and the temperature of that sample shall be checked. Once it is determined to be within the acceptable temperature range, both the first and second samples shall be combined in a single container. Reference (c), Appendix D, specifies procedures to be used if the temperature is outside the acceptable range.

(2) Unable to Void. If the employee is unable to void, the employee will be asked to drink sufficient fluids to facilitate urination. The employee will be required to remain at the collection site within view of the DPC/CSC until the sample is provided.

Under either of these conditions, the DPC may elect to release the employee. This release is not considered a deferral.

i. Collection Extending Beyond the Regular Shift. If the collection extends beyond the end of the employee's regular shift, the following options are available depending on an assessment of the situation by the DPC after a discussion with the employee's supervisor or higher level manager:

(1) The employee may be required to remain at the collection site and be paid overtime or given compensatory time as the situation may warrant.

(2) The DPC may release the employee which will not be considered a deferral as described in paragraph 9c of this Order. No special test will be scheduled.

j. Opportunity to Justify a Positive Test Result. Positive drug test results from the NDSL may only be given to the MRO. The MRO will review the medical explanation for the result. An employee must be afforded an opportunity to justify a positive test result by submitting medical records, a valid prescription and/or other relevant biomedical information. The employee will be allowed to discuss the test results with the MRO either in person or by telephone, as the MRO decides. A "face-to-face" interview, however, is not required except in the case where the employee tests positive for opiates.

k. Confidentiality of Test Results

(1) The laboratory will disclose test results only to the MRO. Any positive result which the MRO determines to be justified by other than the intentional ingestion of an illegal

15 May 91

drug, will be treated as a negative test result and may not be released for purposes of identifying illegal drug use. Test results are protected under the provisions of the Privacy Act, 5 U.S.C 552a, et seq., and Section 503(e) of reference (h). An employee's test results may not be disclosed without prior written consent of the employee, unless the disclosure would be:

(a) To the MRO.

(b) After MRO review, to the DPC.

(c) After MRO review, to the CEAP Administrator for purposes of counseling and rehabilitation.

(d) After MRO review, to the supervisor or management official having the authority to take or process an administrative or adverse personnel action against the employee or to an administrative tribunal in any adverse personnel action. A management official, in this instance, includes any person whose duties necessitate review of the test results in order to process an administrative or adverse action against the employee.

(e) Under an order of a court of competent jurisdiction or required by the United States Government to defend against any challenge against any adverse personnel action.

(2) Any records of the MRO, including drug test results, may be released to any management official for purposes of auditing the activities of the MRO, for data collection or other purposes consistent with requirements to comply with Section 503(f) of reference (h) or Department of the Navy requirements. This form of disclosure may not include personal identifying information on any employee.

(3) Other information on records is contained in paragraph 16 of this Order.

8. Random Testing

a. Additions to and Deletions From the DON TDP List.

Activities may request additions to or deletions from the DON TDP list as set forth in reference (a). All requests must be submitted via the DPC.

b. Activity Testing Designated Positions

(1) The DPC will compile the activity TDP list of positions which then forms the activity TDP pool for random testing. The list shall contain at a minimum:

15 May 91

(a) The incumbent's name, social security number, and gender.

(b) The position title, pay plan, and series.

(c) Organizational code or other organizational information, such as duty location.

(2) This list of positions and incumbents must be maintained to ensure that it is current and accurate at all times. The MCCCPO-DC will advise the DPC when:

(a) Positions are established or abolished.

(b) Significant changes are made to the duties of any position. The position should then be reviewed to determine if it meets the criteria for designation as a TDP.

(c) A personnel action results in a change of the incumbent of a TDP.

(d) The organizational location of any TDP is changed.

(3) The activity security office will notify the DPC when an employee is either granted a top secret clearance with access or when there is a change in the status of an incumbent previously possessing a top secret clearance. As appropriate, the DPC will notify the MCCCPO-DC which will change the NCPDS data element "Drug Test Required."

(4) Positions may not be selected for random drug testing on the basis of a desire to test particular individual employees.

c. Individual Notice

(1) Each employee in a TDP must be issued an individual notice at least 30 days before that employee is subject to unannounced random testing. In addition, each employee, upon entering a TDP, will receive an individual notice at least 30 days prior to being subjected to random testing.

(2) Each employee in a TDP will be asked to acknowledge in writing that:

(a) The notice which states that the employee's position has been designated for random drug testing has been received and read.

(b) Refusal to submit to testing will result in administrative action and the initiation of disciplinary action, up to and including removal.

15 May 91

If the employee refuses to sign the acknowledgment, the employee's supervisor shall note on the acknowledgment form that the employee received the notice and forward the form to the DPC. An employee's failure to sign the notice will not preclude testing of the employee.

(3) A copy of the signed acknowledgment must be-retained by the DPC.

d. Review of TDP Designation

(1) An employee who believes their position has been wrongly designated as a position in the TDP pool may request that the activity head review the determination. The request must be submitted by the employee in writing, to the activity head within 15 days of receipt of the individual notice or other form of notification of the TDP determination. It must set forth the reasons why the employee believes the position should not be a TDP and include all other relevant information. The activity head will review the request based upon the criteria applied in designating the employee's position as a TDP and issue a final written decision. This decision is not subject to further review nor may it be grieved under the administrative grievance procedure.

(2) The fact that the employee seeks review of the TDP determination will not exempt the employee from inclusion in the TDP pool during the review process.

e. Temporary Position Changes

(1) An employee, who is detailed or temporarily promoted or reassigned to a TDP through a personnel action documented by an SF-50 or SF-52, will be subject to random drug testing during that period, providing that the assignment is expected to exceed 30 days.

(2) Since testing of the employee prior to temporary placement will not be required, the employee will be issued the individual 30-day notice upon entering the position. (A new notice is not required if the employee is moving between two TDP's.) The employee will be subject to unannounced random testing 30 days after receiving the notice.

(3) If an employee is temporarily promoted or reassigned out of a TDP for over 30 days, the employee should be issued another individual 30-day notice upon reentry. If the employee is detailed out of the permanent TDP, no notice is required because the employee remains in the permanent position.

15 May 91

9. Random Testing Procedures

a. Frequency. The DPC is authorized to determine the frequency of random testing.

b. Procedures Prior to Collection

(1) The DPC will generate or direct preparation of the list identifying employees selected for random testing from the activity TDP pool. The DPC may use any method to generate the list that assures a true random selection. These may range from using computer generated lists based on social security number or the first or last letter of the surname to "blindly" picking numbers. The method of selection must be fully documented for the record.

(2) The DPC will arrange the schedule. The employees will be scheduled in the first half of the shift, if possible.

(3) The list of employees to be tested and the schedule are confidential information and should be treated accordingly.

(4) The DPC will notify the selected employee's first-level supervisor approximately 2 hours prior to the actual time of collection and provide a copy of the supervisor's checklist. If the first-level supervisor is unavailable, the next higher level of supervision will be contacted. The DPC will annotate the list with the date and time the supervisor was contacted.

(5) Approximately 15 to 30 minutes prior to the scheduled collection, the supervisor will privately inform the employee of the exact time and location of the test. In the event the collect site is distant from the work site, appropriate adjustments (generally no more than 60 minutes) will be made to the notification time so long as the advance notice is as brief a time as possible.

(6) The supervisor will explain to the employee that the employee is under no suspicion of taking drugs and that the employee's name was randomly selected. The supervisor will respond to any employee questions to avoid misunderstanding. The employee will be provided with a copy of enclosure (2) of this Order.

(7) The supervisor will instruct the employee to take an appropriate photo identification to the test site and will confirm that the employee possesses such identification.

(8) The supervisor will discuss with a higher level supervisor any problem which may arise with regard to the employee reporting for the test as scheduled. If a deferral, as described immediately below is required, the supervisor will

15 May 91

contact the DPC and submit the required written documentation within 2 days of the scheduled collection.

c. Deferral of Testing

(1) A deferral of an employee's random drug test may be authorized by the DPC, when requested by the employee's first-level supervisor with higher level concurrence. The request must be made in writing and be based on a compelling need which necessitates the deferral on the basis that the employee is:

(a) In a nonduty status such as annual leave, sick leave, suspension, absent without leave, continuation of pay, etc.

(b) In an official travel status away from the work site or is about to embark on official travel scheduled prior to testing notification.

(c) Working a different shift.

(d) Performing a task or project that requires the employee's presence at the work site during the time the test is scheduled.

(2) If the test is not administered that day, the supervisor will inform the employee that testing may be scheduled within 60 days from the date of the deferral or the date the employee returns to duty or to the work site. The DPC will reschedule the test.

d. Exemption During Treatment and Rehabilitation. While undergoing initial treatment or rehabilitation through the CEAP, and at the request of the CEAP Administrator, the employee may be exempted from random testing for a period not to exceed 60 days or for a time period specified in the rehabilitation plan. Upon completion of the stipulated exemption, the employee will be included in a separate testing pool at the activity as a part of or as follow-up to counseling or treatment for illegal drug use for a period of 1 year, in addition to remaining in the regular random testing pool, if occupying a TDP. See paragraph 12 of this Order for details.

e. Standard Collection Procedures. Unobserved collection procedures as provided in reference (c), Appendix D will be used.

10. Voluntary Testing

a. In order to demonstrate a commitment to the DON goal of a drug-free workplace and to set an example for others, an employee, regardless of position, may volunteer to be included in the random testing program. This employee will then be included

15 May 91

in the pool of TDP's and will be subject to the same conditions and procedures for random testing. Sample memoranda for voluntary drug testing and acknowledgment of request for voluntary drugs testing are contained in enclosure (3).

b. The DPC shall, within 10 working days of receipt of a request for voluntary testing, provide to the requesting employee two copies of the acknowledgment notice.

c. The employee shall return to the DPC one signed copy no later than 10 working days after receipt. Failure to do so will be viewed as a withdrawal of the request.

d. The DPC will retain the employee's signed acknowledgment form.

e. If the employee later chooses to withdraw from voluntary testing, the employee may do so submitting a written request to the DPC.

11. Reasonable Suspicion Testing

a. Determination of Reasonable Suspicion

(1) A test may be authorized when management suspects that an:

(a) Employee in a TDP is using drugs on or off duty, drug possession, or exhibits the' physical symptoms of drug impairment.

(b) Employee in a non-TDP is using drugs on duty or the employee's work is drug-impaired.

(2) Reasonable suspicion must be based on specific objective facts and reasonable inferences drawn from these facts. Reasonable suspicion testing may be based upon, among other things:

(a) Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug.

(b) A pattern of abnormal conduct or erratic behavior.

(c) Arrest or conviction for an on- or off-duty drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking.

15 May 91

(d) Information provided either by reliable and credible sources or independently corroborated.

(e) Newly discovered evidence that the employee has tampered with a previous drug test.

(f) The temperature or color of the urine sample or other evidence, indicates probable adulteration, tampering, or substitution.

(3) Although reasonable suspicion testing does not require certainty, mere "hunches" or "rumors" are not sufficient to meet this standard.

b. Authorization. If an employee is suspected of illegal use of drugs, the appropriate supervisor or management official will gather all information, facts, and circumstances leading to and supporting this suspicion. Approval for reasonable suspicion testing must be received from at least a level above the supervisor or manager requesting the test. If the management official requesting a reasonable suspicion test is outside the employee's direct chain of command, the second level supervisor in the employee's chain of command will be the deciding official. The decision to conduct a test will be made the same day the event or behavior occurs or as soon as management becomes aware of the event or behavior. Immediately upon approval, the DPC will be notified of the requirement to arrange a test.

c. Types of Drugs. Activities performing a reasonable suspicion test are authorized to test for cocaine, marijuana, amphetamines, opiates, and PCP. While reference (i) permits testing to include any drug on Schedules I and II of the CSA contained in reference (c), Appendix G, until further notice, activities may only request testing for LSD and barbiturates. The DPC must specify the drugs for which the employee is being tested on the Urine Sample Custody Document contained in reference (c), Appendix D.

d. Documentation. As an immediate follow-up procedure to the test, the appropriate supervisor/manager will detail in writing the circumstances which warranted the test. At a minimum, the report will include the appropriate dates and times of reported drug-related incidents, reliable and/or credible sources of information, reasons leading to the test, the higher level concurrence, findings of the test, and any action taken. The DPC will retain a copy of this documentation. A sample format is provided at enclosure (4).

e. Scheduling. The DPC will arrange for the collection to be conducted on the same day the test was approved by management, if possible, but not later than 24 hours after the event which caused the determination. This test may be conducted without

15 May 91

regard to the employee's work shift, etc., and overtime pay or compensatory time will be provided as needed.

f. Notification

(1) The supervisor, if not previously directly involved in the reasonable suspicion determination, will be notified by the DPC that an emergency collection procedure has been initiated. If the immediate supervisor is not available, the next higher level supervisor will be contacted. The DPC will provide the supervisor with the time and location of the collection and any necessary information to be conveyed to the employee.

(2) The supervisor or management official will notify the employee of the time and location of the test and issue the specific written notice that the employee is being tested for reasonable suspicion. A sample of such notice is at enclosure (5).

(3) The employee will be directed to take an appropriate photo identification to the test site. The supervisor or other management official will escort the employee to the site.

g. Collection Procedures

(1) The employee may be directed to provide the urine sample under direct observation.

(2) To ensure that the chain of custody and specimen control are maintained, the collector will follow the direct observation procedures contained in reference (c), Appendix D.

12. Follow-up Testing

a. Description. All DON employees referred through administrative action to undergo a counseling or rehabilitation program for illegal drug use through the CEAP, will be subject to unannounced drug testing as a follow-up to that program. This testing is separate from the regular random testing conducted by the activity. The employee will be tested for a period of 1 year or for such time as specified in the written agreement. In addition, an activity may impose testing as part of the rehabilitation or treatment program.

b. Documentation. Prior to undergoing counseling or treatment required by this Order, the employee must acknowledge, in writing, that testing will be a part of or a follow-up to rehabilitation or treatment. The signed acknowledgment will be retained by the DPC.

15 May 91

c. Notification. The supervisor or manager will notify the DPC upon the employee's return to work so that follow-up testing can begin. Upon the completion of any initial or in-patient counseling or rehabilitation for illegal drug use or as part of the rehabilitation process, the CEAP Administrator or counselor will notify the DPC so that follow-up testing can begin.

d. Frequency. Such employees will be tested at a frequency determined by the activity and the frequency need not be specified in the rehabilitation plan.

e. Deferral of Testing. See paragraph 9c of this Order.

f. Collection Procedures

(1) The employee will be directed to provide the urine sample under direct observation.

(2) To ensure that the chain of custody and specimen control are maintained, the collector will follow the direct observation procedures contained in reference (c), Appendix D.

13. Applicant Testing

a. Coverage. Drug testing will be required of all individuals tentatively selected for a TDP unless the selection involves only a temporary position change or the individual currently occupies a DON TDP. Other actions requiring pre-selection testing include reassignment, promotion, or any other personnel action resulting in the decision to permanently place an employee in a TDP.

b. Vacancy Announcements

(1) All vacancy announcements for TDP's will contain the following statement:

Any applicant tentatively selected for this position will be required to submit to urinalysis for illegal use of drugs prior to a final selection. The selection is contingent upon a negative drug test result, and thereafter, the selectee will be subject to drug testing on a random basis as the incumbent of a TDP. Further, all Department of the Navy employees may be subject to drug testing under certain circumstances such as reasonable suspicion. All individuals will have an opportunity to submit medical documentation that may support the legitimate use of a specific drug to a Medical Review Officer. An applicant's test results will be provided to the selecting official and MCCCPO-DC before a final selection is made. A verified positive drug test result of a current DON employee will also be provided to that employee's activity.

15 May 91

(2) Failure of the vacancy announcement to contain such notice will not preclude testing if written advance notice is provided to the applicant in some other manner. Other forms of notice are proper if a vacancy announcement is not used.

c. Notification

(1) Before the final selection for any vacancy and/or requesting that the DPC arrange a drug test for a tentative TDP selectee, the Classification and Employment Section, MCCCPO-DC will verify from records that the individual has not had a verified positive drug test result within the last 6 months. If the selectee has had a verified positive test within the last 6 months, the Classification and Employment Section will notify the selecting official that the applicant cannot be selected. If the selectee has not had a verified positive test, the DPC will arrange for the test and inform the Classification and Employment Section of the date, time, and place of the test. The Classification and Employment Section will then provide this information to the individual to be tested.

(2) The drug test must be undertaken as soon after notification as possible, and no later than 48 hours. Where appropriate, applicant may be reimbursed for reasonable travel expenses. (See reference (k) for specific information.)

d. Opportunity to Justify a Positive Test Result. All applicants will have an opportunity to justify a positive test result following reference (i). (See paragraphs 7j and 14b of this Order.)

e. Standard Collection Procedures. Unobserved collection procedures will be used. To ensure strict chain of custody and specimen control, the specific procedures contained in reference (c), Appendix D.

f. Test Results. The DPC will be notified of the test results by the MRO. The DPC will inform the Classification and Employment Section with written notice of the test results. The Classification and Employment Section will document the test result in the selection package so that the process can continue. If an applicant has a verified positive result, the following procedures apply:

(1) The Classification and Employment Section will notify the selecting official so that another tentative selection can be made.

(2) The Classification and Employment Section will notify the applicant that the verified presence of a drug in the urine precludes the activity from hiring or placing the applicant in the position. Also, the Classification and Employment Section

15 May 91

will advise the applicant that they will not be considered for any other vacancies (including non-TDP's) at any activity serviced by the MCCCPO-DC for a period of 6 months from the date the positive test was verified by the MRO.

(3) If the applicant is a current Marine Corps employee, the Classification and Employment Section will notify the applicant's supervisor if the vacancy was at the employee's own activity. If the applicant is an employee from another DON activity, the Classification and Employment Section will notify the activity head. The activity head will notify the head of the applicant's activity.

(4) If the applicant was tentatively selected from an OPM certificate, the Classification and Employment Section will object to hiring the applicant on the basis of failure to meet a condition of employment and lack of personal characteristics necessary for employment in this TDP.

(5) Although 42 U.S.C. 290ee-1(b) (1) states that no person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the ground of prior drug abuse, DON considers a verified positive test result within a preceding 6-month period to be current, not prior, drug abuse. Therefore, the statutory provision cited above would not apply.

14. Review of Drug Test Results

a. Receipt of Results. All drug test results will be reported to the MRO with a certified copy of the original Urine Sample Custody Document, OCPM 12792/2.

b. Procedures

(1) Negative Drug Test Results. The MRO will immediately forward all negative drug test results to the DPC.

(2) Positive Drug Test Results. The medical review of each positive test result must be performed by the MRO. The purpose of the review is to determine if the positive result is evidence of illegal drug use. It will not address any issues of innocent ingestion. These are matters to be considered by the appropriate management/supervisory official.

(a) The MRO will evaluate alternate medical explanations of a positive test result. This may include conducting a medical interview with the individual, review of the individual's medical history, or consideration of other relevant biomedical factors. Any requests for medical information shall be made by the MRO directly to the employee/applicant to ensure maximum confidentiality.

15 May 91

(b) The MRO will review all medical records made available by the tested individual when a positive test could have resulted from legally prescribed medications.

(c) The employee will have an opportunity to discuss the test results with the MRO, although a face-to-face interview is not required unless the employee tests positive for opiates.

(d) The employee is not entitled to present evidence to the MRO in a "hearing" or other similar administrative proceeding, although the MRO has the discretion to accept evidence in any manner deemed efficient or necessary.

(e) The MRO is authorized to order a reanalysis of the original sample should questions arise as to the accuracy or validity of a positive test.

c. Notification

(1) Negative Drug Test Results. The MRO will forward all negative drug test results to the DPC so that employees can be provided with their test results. For applicants, the DPC, upon receipt of the negative test report, will notify the Classification and Employment Section.

(2) Verified Positive Drug Test Results. If the MRO determines there is no medical justification for the positive result, such result will then be considered a verified positive test result. The MRO will immediately contact the DPC who will notify the appropriate supervisor or management official having authority to take a personnel action against the employee. (See paragraph 13f of this Order for information on notification procedures regarding applicant test results.)

15. Consequences of a Finding of Illegal Drug Use

a. Mandatory Administrative Actions

(1) CEAP Referral. An employee found to use illegal drugs must be referred to the CEAP.

(2) Position Actions

(a) If the employee occupies a TDP, as defined in reference (c), the employee must immediately be removed from the position through appropriate personnel action. The employee will be assigned to a non-TDP, if available.

(b) The activity head may return the employee to duty in a TDP as part of a rehabilitation and counseling program, if it would not endanger public health, safety, or national security. This determination should consider information

15 May 91

obtained from the DPC, the MRO, CEAP personnel, and the employee's supervisors.

b. Disciplinary/Adverse Action

(1) Activities will initiate disciplinary action against any employee for the first instance of illegal drug use," except under the circumstances set forth in paragraph 7d(3) of this Order. The activity will initiate action to remove an employee for:

(a) Refusing to obtain counseling or rehabilitation through the Civilian Employee Assistance Program (including refusal to sign a consent to release information) as required by E.O. 12564 after having been found to use illegal drugs.

(b) A second finding of illegal drug use.

(2) Failure to Report to the Designated Collection Site. An employee who fails to appear for testing will be subject to the same range of discipline as a verified positive test result for illegal drug use. (See paragraph 7f of this Order.)

(3) Refusal to be Tested When Required. An employee's refusal to be tested shall be subject to the same range of discipline as a verified positive test result. (See paragraph 7g of this Order.)

(4) Disciplinary action must be taken consistent with the provisions of reference (e).

(5) Advice and guidance on disciplinary or adverse actions will be provided by the Employee Relations/Training Section, MCCCPO-DC.

c. Reasonable Accommodation Requirements

(1) The Americans with Disabilities Act (ADA), Public Law No. 101-336, (104 Stat. 327 (1990)), effective 26 July 1990, amended the Rehabilitation Act of 1973 definition of "handicapped individual," 29 U.S.C. 706(8), to exclude individuals currently engaging in the illegal use of drugs. This amendment provides a statutory basis on which employers may take action against persons who currently use drugs illegally without fear of being liable for discrimination under the Rehabilitation Act. This change is significant because it makes it 'clear that the Rehabilitation Act does not protect employees who test positive since they are deemed to be "currently engaging in the illegal use of drugs."

(2) Former drug abusers are still protected from discrimination under the Rehabilitation Act if they are

15 May 91

participating in, or have successfully completed, a supervised rehabilitation program or have otherwise been rehabilitated. They must, however, continue to abstain from engaging in the illegal use of drugs.

(3) Employees in non-TDP's found to use drugs illegally may be retained in their position or detailed to another position as part of a counseling or rehabilitation program. Failure to complete counseling or rehabilitation will result in adverse action which may include removal.

16. Records and Reports

a. Confidentiality of Records in General. All drug testing information specifically relating to individuals is confidential and should be treated as such by anyone authorized to review or compile DFWP records. Records and information described above shall remain confidential, retained in a secure device, with only authorized individuals who have a "need-to-know" having access to them. These records will be retained for a period of 2 years unless otherwise covered by another record-keeping system such as the Employee Medical File.

b. DPC. In order to effectively implement this order and to make information readily retrievable, the DPC will maintain all records relating to DFWP including drug testing and any other authorized documentation necessary to support the program.

c. MCCCPD-DC. All records and information relating to the drug testing of selectees will be retained in the recruiting, examining and placement records. Discipline and adverse actions records resulting from employee verified positive test results will be maintained by the Employee Relations/Training Section, MCCCPD-DC.

d. CEAP. The CEAP Administrator will maintain only those records necessary to comply with this Order and references (a) through (e).

e. MRO. All drug test results and other related records necessary to perform the functions of the position will be maintained by the MRO.

f. Maintenance of Records. The Department of the Navy will, within the existing record-keeping system, maintain the records of its Drug-Free Workplace Program consistent with its Privacy Act system of records and with all applicable Federal laws, rules, and regulations regarding confidentiality of records including the Privacy Act, 5 U.S.C. 552a, et seq. If necessary, records may be maintained as required by subsequent administrative or judicial proceedings, or at the discretion of the Secretary of the Navy.

15 May 91

g. Employee Access to Records. Any employee (including any Federal employee applicant) who is the subject of a drug test will, upon written request to the DPC, have access to any records relating to:

(1) such employee's drug test; and

(2) the results of any relevant laboratory certification, review, or revocation of certification proceedings, as referred to in Section 503 of reference (h). Except as authorized by law, an applicant who is not a Federal employee will not be entitled to this information.

h. Statistical Report. The DPC will collect and compile anonymous statistical data for each activity as required by reference (a).

17. Action. Activity heads may commence urinalysis testing only after:

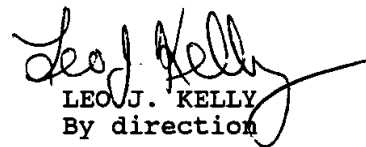
a. Drug Program Coordinator(s), collection team personnel, and a Medical Review Officer are appointed and trained on the requirements of the DFWP and testing collection procedures under reference (i).

b. Mandatory training for supervisors and managers has been conducted.

c. All positions have been reviewed to confirm that the position title and actual duties performed meet the criteria and justification for designation as TDP's.

d. An individual notice is given to each employee in a TDP no later than 30 days before the employee is subject to unannounced random testing.

e. The provisions of this Order are implemented and that the contents are made known to appropriate officials and employees under their direction.


LEO J. KELLY
By direction

DISTRIBUTION: PCN 10212530100

Copy to: 7000110 (55)
7000093 (5)
8145005 (2)
7000144/8145001 (1)

15 May 91

RANDOM DRUG TESTING PROGRAM
CHECKLIST FOR SUPERVISORS

1. On the actual date that a random drug testing collection is scheduled the Drug Program Coordinator (DPC) or the Collection Site Coordinator (CSC) will notify you which of your employees have been selected for testing and the time the individual is scheduled to report to the collection site. This information is confidential.
2. You should use the following procedures when notifying the employee of the collection process:
 - a. Approximately 15 to 30 minutes prior to the time necessary to depart the worksite to arrive for the collection appointment, inform the employee verbally and privately that through a random selection process they have been identified for drug testing by urinalysis.
 - b. Inform the employee of the time and exact location of the collection location.
 - c. Instruct the employee to take a photo identification to the collection site.
 - d. Advise employee to be prepared to provide a urine specimen at the scheduled collection time.
 - e. Provide the Checklist for Employees to each scheduled employee.
 - f. Advise the DPC/CSC if an employee selected for random testing is unavailable for legitimate reasons (e.g., working a different shift, travel, leave). Once the employee has been notified of testing, any leave requests submitted for the same time as the test should be carefully scrutinized.
 - g. If a scheduling change is necessary to maintain work operations, co-ordinate closely with the DPC/CSC. Do not make any unilateral changes.
 - h. Immediately report any problems encountered during the employee notification to the DPC/CSC. Employees who fail to cooperate with the collection procedures will be subject to disciplinary action consistent with the DON regulations.
 - i. If you have any questions or concerns, you should share them with your DPC.

ENCLOSURE (1)

RANDOM DRUG TESTING PROGRAM
CHECKLIST FOR EMPLOYEES

1. You will be participating in the Department of the Navy (DON) Drug-Free Workplace Program designed to support a drug-free Federal workforce. Your random selection for drug testing by urinalysis in no way reflects that there is any specific cause to suspect the usage of illegal drugs. Failure to cooperate with the collection procedures will be subject to disciplinary action consistent with DoN regulations. The following set of instructions has been developed to ensure that uniform and accurate collection procedures are followed with each individual participating in the program.

a. You are expected to arrive at the collection site at the scheduled time.

b. Collection site personnel will ask you to verify your social security number and provide a photo ID such as a driver's license or agency badge. You will be asked to verify your social security number and provide your initials/signatures at several stages throughout the collection process. These precautions are for your protection and will help ensure that all specimens are labeled correctly.

c. You will be asked to remove any outer garments; e.g., coat, jacket, coveralls. All personal belongings (e.g., purse, briefcase) must remain with your outer garment(s). You may retain your wallet.

d. When instructed by the observer, wash, and dry your hands.

e. Collection site personnel will provide you with a specimen collection container and advise you not to flush the toilet.

f. You will provide the specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy. It will be necessary for you to provide a specimen of at least 60 milliliters. If you are unable to provide a sufficient quantity of urine, you will be asked to drink sufficient fluids to facilitate urination. You will remain at the collection site in the presence of an authorized individual until the sample is provided.

ENCLOSURE (2)

15 May 91

g. If a "catch container" is used, the specimen must be transferred by you to a sealable shipping bottle. This process will be observed.

h. The observer will place the bottle cap and the identification label securely on the specimen bottle. Tamper-proof tape will be placed over the bottle cap and down the sides. You will observe the entire process to ensure the integrity of the collection.

i. After the bottle is sealed and labeled, you may wash your hands.

j. You will be asked to certify that the specimen collected is yours.

k. You may direct any questions to your supervisor, the Drug Program Coordinator, or the Collection Site Coordinator.

l. You will be advised of the results of the drug testing by the DPC.

ENCLOSURE (2)

15 May 91

MEMORANDUM

From: _____
(Requesting employee)
To: _____
(Drug Program Coordinator (DPC))
Via: _____
(1st line supervisor)

Subj: REQUEST FOR VOLUNTARY DRUG TESTING

1. I voluntarily request to be included in the pool of Testing Designated Positions (TDP's) subject to random testing. This decision has been made without any management coercion or pressure. I understand I will be subject to the same conditions and procedures as an employee in a TDP. I also understand I may withdraw from inclusion in the random testing pool at any time upon submission of a written statement to the DPC.

2. The following information is provided in support of this request:

- a. Name: _____
- b. Social Security Number: _____
- c. Gender: ___Male ___Female
- d. Position Title: _____
Series: _____
Grade: _____
- e. Organization: _____
- f. Duty Station: _____

Employee Signature Date

ENCLOSURE (3)

15 May 91

MEMORANDUM

From: _____
(Drug Program Coordinator)

To: _____
(Employee's Name)

Subj: ACKNOWLEDGMENT OF REQUEST FOR VOLUNTARY DRUG TESTING

Ref: (a) CPI 792.3
(b) MCO 12792.2

1. This will acknowledge your written request to volunteer for the agency drug testing program. Pursuant to Executive Order 12564, "Drug-Free Federal Workplace," the DON has initiated a comprehensive program to achieve the goal of a drug-free workplace. This program is set forth in references (a) and (b).

2. As a result of your request, you will be included in the pool of testing designated positions subject to random testing. You will remain in the pool until you withdraw from participation, which you may do at any time, even after being notified of an impending random drug test, by submitting a written request stating that you wish to withdraw from the program and the effective date to the DPC.

3. Drug testing is being performed through urinalysis by the Navy's certified forensic toxicology drug testing laboratory. The testing methodology reflects the scientific and technical procedures necessary to assure the results are highly reliable and accurate. The certification process provides for strict quality control procedures. These procedures will include an initial screen of the urine sample you provide for drugs and, if appropriate, a confirmation test by gas chromatography/mass spectrometry.

4. To assure that the sample collected from you is not accidentally confused with any other sample, strict procedures will be used when collecting and transferring the specimen. The total of these procedures is known as the chain of custody. The test results from your sample will be handled with maximum respect for individual confidentiality consistent with safety and security. Any confirmed positive test result reported by the laboratory will be reviewed by a Medical Review Officer (MRO) before a determination is made that an employee has used illegal drugs. You will be given an opportunity to justify the results by submitting medical records and/or a valid prescription.

5. If it is determined that you are using illegal drugs on or off duty by means of this drug test or any other means, you will be provided the opportunity to use the services of the Civilian

ENCLOSURE (3)

15 May 91

Employee Assistance Program. Through this program, you may receive counseling and learn about the availability of rehabilitation.

6. You will be subject to the same conditions and procedures as an employee in a Testing Designated Position (TDP) as described in the references. If a determination is made that you are using illegal drugs, you will be subject to unannounced follow-up testing for a period of 1 year after you complete a rehabilitation program. Refusal to enter or successfully complete a rehabilitation program will be grounds for removal from Federal service. If you test positive a second time as a result of any subsequent drug test or a second determination of illegal drug use by you is made, you also will be subject to removal.

7. Sign and return one copy of this notice to the DPC no later than 10 working days from receipt. Failure to do so will be viewed as a withdrawal of the request.

8. If you have other questions, please contact the undersigned.

(Drug Program Coordinator)

MEMORANDUM

From: _____
(Requesting Employee)
To: _____
(Drug Program Coordinator)

Subj ACKNOWLEDGMENT OF REQUEST FOR VOLUNTARY DRUG TESTING

1. I hereby acknowledge receipt of this notice and agree to the conditions stated therein.

(Signature of Employee) (Date)

ENCLOSURE (3)

DOCUMENTATION IN SUPPORT OF
DRUG-RELATED INCIDENT

Date: _____

Employee Name: _____ SSN: _____

Organization: _____

Date of incident: _____

Time of incident: _____

Type of testing: Reasonable Suspicion

Description of the incident leading to the request: (Be specific; e.g., arrest or conviction for an on- or off-duty drug-related offense; direct observation of an employee using illegal drugs; direct observation of an employee tampering with their urine specimen; temperature of urine sample outside the normal range.)

Individuals witnessing the incident: (Be specific, use name, title, organization, relationship to person being tested; e.g., coworker, police officer, spouse, etc., of individual providing information on a drug-related incident.)

Any other pertinent facts or attachments (list):

Documented by: Name (print): _____

Title (print): _____

Signature: _____

Date: _____

ENCLOSURE (4)

MCO 12792.2

15 May 91

I have reviewed the above details and facts supporting an incident of suspected illegal drug use relevant to the requested test.

I concur with the request: _____
Signature, approving official Date

I nonconcur with request: _____
Signature, disapproving official Date

ENCLOSURE (4)

MEMORANDUM

From: _____
(Supervisor or Management Official)
To: _____
(Employee's Name)

Subj: NOTICE OF REASONABLE SUSPICION TESTING FOR ILLEGAL DRUG
USE

Ref: (a) SECNAVINST 12792.3
(b) CPI 792.3
(c) MCO 12792.2

1. The Department of the Navy (DON) has initiated a comprehensive program to achieve the goal of a drug-free workplace. This program is set forth in the references.

2. It has been determined that sufficient grounds exist to authorize collection of a urine sample from you on the basis of reasonable suspicion. This drug test is required since management has formed a reasonable suspicion that you are using illegal drugs. Collection procedures under reasonable suspicion testing may require you to provide a specimen under direct observation.

(NOTE: The supervisor or management official must provide a separate statement -- see sample in enclosure (3) -- circumstance which formed the basis for the decision to conduct reasonable suspicion drug testing.)

3. Drug testing for DON civilian employees is performed through urinalysis done by a Navy Drug Screening Laboratory. The testing methodology complies with guidelines issued by the Department of Health and Human Services and reflects the scientific and technical procedures necessary to ensure that the results are highly reliable and accurate. These procedures will include an initial screening of the urine sample you provide for the presence of illegal drugs and, if appropriate, a confirmation test by gas chromatography/mass spectrometry.

4. To ensure that the sample collected from you is not accidentally confused with any other sample, strict procedures will be used when collecting and transferring the sample. These procedures are known as the chain of custody. The test results from your sample will be handled with maximum respect for individual confidentiality consistent with safety and security.

ENCLOSURE (5)

15 May 91

A confirmed positive test result reported by the laboratory will be reviewed by a Medical Review Officer (MRO) before a determination is made that you have used illegal drugs. MRO's are licensed physicians with experience in substance abuse disorders. You will be given an opportunity to submit medical documentation to the MRO to establish your legitimate use of the specific drug(s) detected by testing before any administrative action is taken.

5. If it is determined that you are using illegal drugs by means of this drug test or other means, you will be referred to the Civilian Employee Assistance Program (CEAP). Through this program, you will receive counseling and learn about the availability of sources of treatment and rehabilitation assistance. Information concerning the CEAP may be obtained from your immediate supervisor or by contacting the CEAP administrator, (provide name, address, telephone number).

6. If you are employed in a Testing Designated Position, as defined in reference (b), and illegal drug use is detected, you will be immediately taken out of your position by detail, reassignment, or other personnel action. You may be returned to your TDP position by the activity head at the completion of or as part of your successful participation in a rehabilitation or counseling program. In addition, disciplinary action up to and including removal from the Federal service will be initiated if you refuse to submit to this drug test. A removal action will be initiated if you refuse to obtain counseling or rehabilitation through the CEAP after being found to use illegal drugs or for a second finding of illegal use.

7. If you have other questions please contact (provide name), the Drug Program Coordinator.

(Immediate Supervisor)

(Second/Higher Level Supervisor)

Copy to:
DPC

ENCLOSURE (5)